

**TESTIMONY OF MONITA W. FONTAINE, ESQ.
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BEFORE THE**

**HOUSE COMMITTEE ON RESOURCES, SUBCOMMITTEE ON FISHERIES AND OCEANS
HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, SUBCOMMITTEE ON COAST
GUARD AND MARITIME TRANSPORTATION
JOINT HEARING ON
S. 362 – MARINE DEBRIS RESEARCH PREVENTION AND REDUCTION ACT
September 29, 2005**

Good morning, my name is Monita Fontaine and I am Vice President, Government Relations for the National Marine Manufacturers Association (NMMA). I am delighted to be here today to testify on behalf of NMMA's members on S. 362, the Marine Debris Research, Prevention and Reduction Act.

The National Marine Manufacturers Association (NMMA) is the nation's largest recreational marine industry association, representing more than 1,500 boat builders, engine manufacturers, and marine accessory manufacturers, as well as more than 1,600 marina operators and owners through its affiliated Association of Marina Industries (AMI). NMMA members collectively produce more than 80 percent of all recreational marine products made in the United States, which are used annually by 72 million recreational boaters. The recreational boating industry contributes \$33 billion annually to our nation's economy.

Clean water is the foundation for an enjoyable boating experience, which is why protecting the environment comes naturally for boaters. Quite simply it is good business for the recreational marine industry to ensure that the marine environment and recreational boaters' favorite destinations are protected for the benefit of future generations. I am proud to represent an industry that has long supported common sense efforts to mitigate the substantial environmental, health and navigation hazards posed by marine debris. Indeed, marine debris can be a floating menace to navigation. Discarded rope and line can foul propellers, and plastic bags and sheeting can clog seawater intakes and evaporators which can lead to engine failure, costly repairs and take time away from boating. But the effects of marine debris impact the recreational boating community further. People can be entangled in marine debris from common activities like

swimming, potentially causing severe injury. Debris also causes ecosystem habitat damage endangering marine life.

As you are aware, the U.S. Commission on Ocean Policy devoted an entire chapter to the issue of marine debris in its 2004 report.¹ When the Report was issued, NMMA applauded the Commission's intensive commitment and dedication to addressing the issues and challenges facing our oceans and broadly supported the Commission's recommendations. NMMA members have made serious strides to improve the quality of our aquatic resources through improved waste management systems, cleaner engines, and non-littering programs. Similarly, NMMA supports the goals and purposes of S. 362, to reduce the amount of marine debris in oceans and coastal areas and to mitigate its effects on health and navigation safety. It is NMMA's view that many of the provisions in S. 362 are good commonsense approaches, such as:

- increasing coordination among federal and state agencies;
- identifying potential navigational hazards;
- establishing a voluntary incentive program to report and recover lost fishing gear;
- creating partnerships with local organizations to conduct outreach and educate the public and other stakeholders on how to prevent marine debris; and
- establishing a valuable federal information clearinghouse.

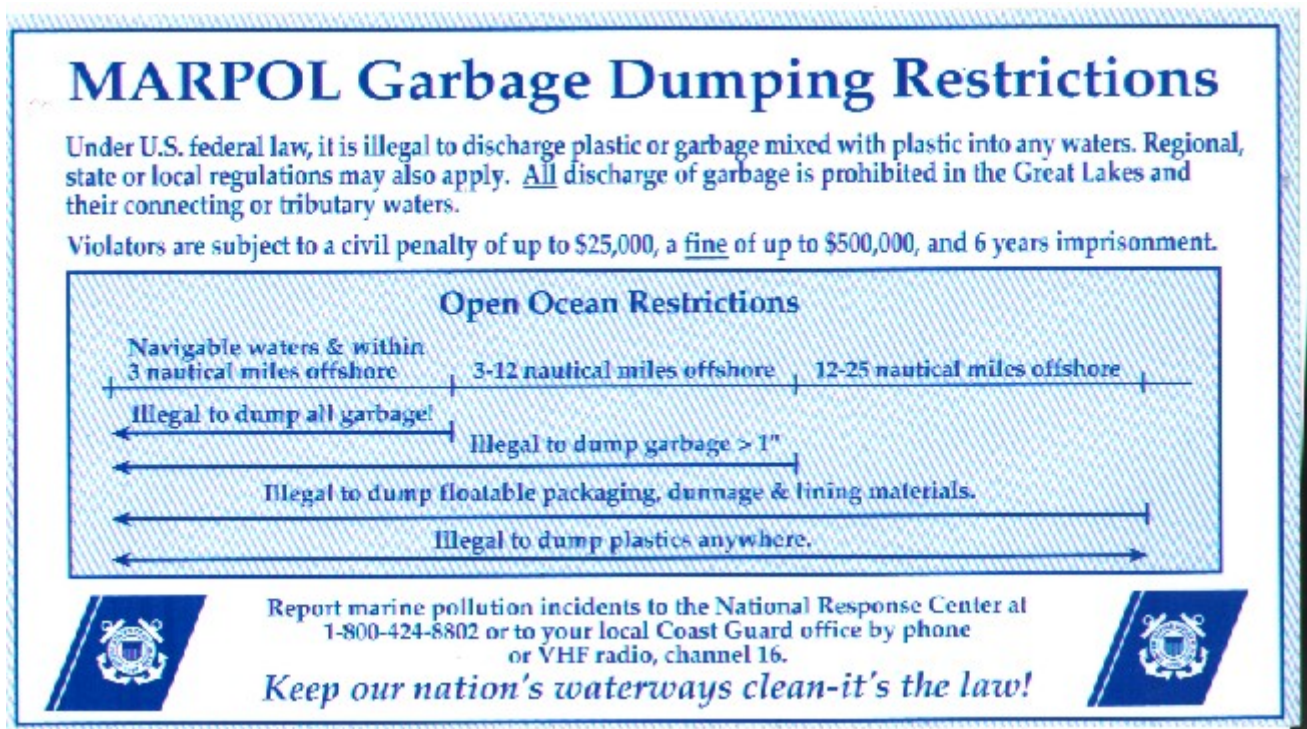
However, NMMA has concerns with some of the provisions in S. 362. Therefore, NMMA would like to provide the following recommendations to inform the Committees as you consider this legislation.

First, any legislation to address marine debris must recognize that current U.S. Coast Guard regulations on garbage disposal are already comprehensive and balanced.

Currently, the U.S. Coast Guard (USCG) verifies on every vessel inspected whether the vessel is in compliance with garbage and oil discharge laws and regulations. The USCG looks for compliance with garbage regulations as one of the many items checked during a vessel safety inspection, which also includes proper vessel registration, life jacket and fire extinguisher carriage, navigation lights, and copy of navigation rules.

¹ See Chapter 18, "Reducing Marine Debris" of the U.S. Commission on Ocean Policy Report, *An Ocean Blueprint for the 21st Century* (Sept. 20, 2004).

In addition, the U.S. Coast Guard garbage regulations are comprehensive and appropriate for vessel use. For example, the USCG requires vessels engaged in commerce of 400 gross tons or more, to keep a written record of garbage discharge or disposal operations.² For vessels 40 feet or more that are either in commerce or are equipped with a galley and berthing, the USCG requires a written waste management plan.³ Finally, every manned U.S. vessel, recreational or commercial, that is 26 feet or more in length must have a MARPOL garbage placard displayed in prominent locations and in sufficient numbers so that they can be read by the crew and passengers.⁴ Below is an example of what that placard looks like.



MARPOL Garbage Dumping Restrictions

Under U.S. federal law, it is illegal to discharge plastic or garbage mixed with plastic into any waters. Regional, state or local regulations may also apply. All discharge of garbage is prohibited in the Great Lakes and their connecting or tributary waters.

Violators are subject to a civil penalty of up to \$25,000, a fine of up to \$500,000, and 6 years imprisonment.

Open Ocean Restrictions

Navigable waters & within 3 nautical miles offshore	3-12 nautical miles offshore	12-25 nautical miles offshore
Illegal to dump all garbage!	Illegal to dump garbage > 1"	
Illegal to dump floatable packaging, dunnage & lining materials.		
Illegal to dump plastics anywhere.		

Report marine pollution incidents to the National Response Center at 1-800-424-8802 or to your local Coast Guard office by phone or VHF radio, channel 16.

Keep our nation's waterways clean-it's the law!

These regulations properly include more stringent controls to target larger vessels that are more likely to be used for longer voyages where sufficient trash may be accumulated and discarded.

² 33 C.F.R. § 151.55. *See generally* regulations to implement the Act to Prevent Pollution from Ships, 1980 (33 U.S.C. §§ 1901 – 1911 and Annexes I, II, and I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 related thereto (MARPOL 73/78) at 33 C.F.R. Part 151.

³ 33 C.F.R. § 151.57.

⁴ 33 C.F.R. § 151.59.

These regulations also do not unnecessarily impose record keeping requirements on small recreational vessels that rarely travel far from shore.

The USCG has achieved the proper balance with these regulations. Additional reduction in marine debris from recreational boaters could be best achieved by initiating a comprehensive boater education outreach effort and by providing incentives. NMMA urges Congress to consider enacting incentives such as a tax credit to boat manufacturers and boat owners to install trash compactors on larger vessels.

Second, any legislation to address marine debris must be mindful of U.S. Coast Guard resources and not impede on its many other critical missions. The Coast Guard wears many hats -- it plays a critical role in our nation's security and border protection, it is the first responder to maritime emergencies, and the men and women who serve in the Guard save thousands of lives every year as part of their search and rescue operations. As Hurricane Katrina reminds us, we must have a well supplied, trained, and staffed Coast Guard ready to spring into action at all times. The Coast Guard rescued or evacuated 33,544 individuals as of September 21, 2005, a number that represents eight times the number of lives saved by the Coast Guard in an average year. Unfortunately, the Coast Guard's budget and active duty force has not increased proportionately with its duties. It is important to ensure that its vital missions are not jeopardized by imposing unwieldy directives to address marine debris. There is no doubt that the problem of marine debris is real and must be addressed, but public policy makers must weight needs and prioritize them realistically.

For these reasons, NMMA does not support separating marine debris inspections from the normal U.S. Coast Guard inspection program or checklist. Rather, in the interest of efficiency, compliance with the garbage rules should remain integrated into the normal vessel or marina inspection checklist. Keeping these missions combined will not only be efficient, but will send a message to boaters that these garbage regulations are just as important as other vessel safety regulations.

Third, any legislation to address marine debris should not impose any new requirements on small vessel operators without first considering the need, the potential economic impacts on vessel owners, and the technical feasibility of the measure. Most importantly, it is unreasonable to require skippers of small recreational boats and small mom and pop marinas to follow complicated rules, complete garbage logs, or submit waste management plans. Data indicates that recreational boating is an extremely small source of marine debris. The Environmental Protection Agency (EPA) estimates that 80% of marine debris originates from land-based activities.⁵ These include landfills; storm-water runoff; poorly maintained garbage bins and dumps; and land-based litterbugs. In light of this and the current comprehensive regulations, NMMA takes issue with language in the bill requiring the USCG to issue regulations “to address implementation gaps” or to “close record keeping gaps” at least as it applies to recreational vessels and marinas.⁶ Therefore, NMMA asks that a provision be added to the bill to make it clear that any new unspecified requirements (such as new recordkeeping burdens) would not apply to recreational vessels or marinas. NMMA is especially concerned about the impact of the bill’s mandate in Section 4, which directs the U.S. Coast Guard to require “ports” and “terminals” to log the waste received from vessels. The bill is unclear as to whether these new regulations would apply to marinas of all types. If it does apply, such a mandate on marinas serving recreational boaters would be extremely burdensome for these small businesses. We can find no compelling benefit derived from a requirement that recreational marinas log the amount of waste they send to landfills.

In addition, we are concerned that this legislation would allow NOAA to impose unspecified requirements regarding the abandonment of recreational fishing gear by boaters. Any requirements about the abandonment of fishing gear by recreational boaters should be developed by the U.S. Coast Guard (with NOAA input of course) and implemented as part of its garbage regulations. NMMA would of course support commonsense regulations prohibiting the abandonment of commercial fishing gear.

⁵ Environmental Protection Agency: Pocket Guide to Marine Debris *available at* <http://sacoast.uwc.ac.za/education/resources/marinedebris/> (last visited Sept. 12, 2005).

⁶ See sec. 4 (a)(2) & 4 (a)(4) of S 362.

It is NMMA's position that the most effective manner of enlisting the boating community's help in the fight against marine debris is not through overly broad and restrictive regulation, but through education and incentives. The recreational marine industry stands ready to assist the Committees as they proceed with this important legislation. I am happy to address any questions the Committees may have.